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18 **UNITED STATES DISTRICT COURT**

19 **NORTHERN DISTRICT OF CALIFORNIA**

20 IN RE TELESCOPES ANTITRUST
 21 LITIGATION

22 This Document Relates to:

23 SPECTRUM SCIENTIFICS LLC, RADIO
 24 CITY, INC., and those similarly situated,

25 Plaintiffs,

26 v.

27 CELESTRON ACQUISITION, LLC, SUZHOU
 28 SYNTA OPTICAL TECHNOLOGY CO., LTD.,
 29 SYNTA CANADA INT'L ENTERPRISES
 30 LTD., SW TECHNOLOGY CORP., OLIVON
 31 MANUFACTURING CO. LTD., OLIVON USA,
 32 LLC, NANTONG SCHMIDT OPTO-
 33 ELECTRICAL TECHNOLOGY CO. LTD.,
 34 NINGBO SUNNY ELECTRONIC CO., LTD.,
 35 PACIFIC TELESCOPE CORP., COREY LEE,
 36 DAVID SHEN, SYLVIA SHEN, JACK CHEN,
 37 JEAN SHEN, JOSEPH LUPICA, DAVE
 38 ANDERSON, LAURENCE HUEN, and DOES
 39 1-50,

40 Defendants.

41 Case No. 5:20-cv-03639-EJD

42 Case No. 5:20-cv-03642-EJD

43 **DIRECT PURCHASER PLAINTIFFS'**
 44 **REPLY TO DEFENDANTS' "STATUS**
 45 **UPDATE" [DKT. 360], WHICH THE**
 46 **COURT IS TREATING AS AN**
 47 **ADMINISTRATIVE REQUEST TO**
 48 **TAKE DPPS' MOTION TO COMPEL**
 49 **COMPLIANCE WITH THE COURT'S**
 50 **ORDERS OFF CALENDAR**

51 **Judge:** Hon. Virginia K.
 52 DeMarchi

53 **Compl. Filed:** June 1, 2020
 54 **Third Am.** August 31, 2021
 55 **Compl. Filed:**
 56 **Trial Date:** None Set

1 Direct Purchaser Plaintiffs (“DPPs”) respectfully submit this Reply to Defendants’ “Status
 2 Update” (Dkt. 360), which this Court is treating as an administrative request by Defendants under
 3 Local Rule 7-11 to take DPPs’ motion to compel Defendants to comply with this Court’s Orders
 4 off calendar. Of course, Defendants have no right to take DPPs’ motion off calendar and made no
 5 effort to meet and confer before filing their “Status Update”—a requirement for all administrative
 6 motions under Local Rule 7-11(a), and also a requirement that this Court has repeatedly urged
 7 Defendants to follow, and which they have continually ignored.

8 Defendants’ Status Update is inaccurate in at least two respects. First, Defendants claim that
 9 they are in compliance with the Court’s Orders to produce their transactional data. (Status Update
 10 at 2.) Defendants do not disclose that they have not produced any transactional data (or anything
 11 else) since DPPs’ motion to compel was fully briefed and submitted. (Declaration of Ronald J.
 12 Fisher (“Fisher Decl.”) ¶ 2.) Thus, none of the issues in the pending motion has changed in the
 13 least.

14 Second, Defendants claim that Judge Davila gave them additional time to produce the
 15 transactional data. (Status Update at 2.) This is also untrue. Leaving aside that Defendants have
 16 represented, albeit inaccurately, to this Court that they already have produced their transactional
 17 data (Dkt. 330 at 5 (claiming that “Defendants are in full compliance with their discovery
 18 obligations”)), which is the whole subject of the motion they seek to take off calendar, Judge
 19 Davila said nothing about obviating DPPs’ motion to compel, or Defendants’ transactional data.
 20 Rather, he set a date for Defendants to complete their long-overdue production of Chinese-
 21 language documents. The relevant colloquy is set forth below:

22 THE COURT: What I’d like to do -- I don’t want to talk about the
 23 merits of that yet, but what I thought would be efficient is if we set a
 24 date, a date that is a date, a firm date that all of the -- that discovery
 25 related to those Asian 30(b)(6) and other witnesses would be
 produced so we have no more arguments about that. I know you
 spent a lot of time with Judge DeMarchi talking about search terms
 and translation of search terms and all of that.

26 And can we just finish that and get started, please? Are we there?
 27 And I’m going to ask you to respond to that, and if you could do that
 without doing this pointing finger thing, that would be helpful to me.
 28 I just need to know when can we get it done?

1 MR. FROST: Your Honor, this is Chris Frost. I think with the few
2 outstanding issues, and there are only a few, we can have everything
3 produced in the next 30 days.

4 (Fisher Decl., Ex. 1 at 15.)

5 As seen above, Judge Davila did not say anything about Defendants' violation of the
6 Court's Orders to produce transactional data, giving Defendants relief from this Court's Order to
7 produce unfiltered transaction data, taking DPPs' motion off calendar, or ruling on DPPs' motion
8 to compel instead of this Court. No reasonable attorney could responsibly conclude otherwise.

9 For the foregoing reasons, Defendants' purported Status Update should be denied.

10 Dated: March 24, 2023

11 Respectfully submitted,

12 BRAUNHAGEY & BORDEN LLP

13 By: /s/ Matthew Borden
Matthew Borden

14 Attorneys for Direct Purchaser Plaintiffs

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